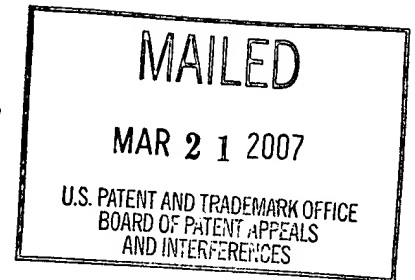


UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte: THERON TOCK and SAMPATH SRINIVAS

Application No. 09/706,297



ORDER RETURNING UNDOCKETED APPEAL

The Board of Patent Appeals and Interferences (Board) electronically received this application on January 17, 2007. The application is not ready for review and consideration by the Board for the reason(s) noted below. Accordingly, the application is herewith being returned to the Examiner to take action consistent with the guidance provided by this order.

EXAMINER'S ANSWER

On July 26, 2006, an Examiner's Answer was mailed. However, the Examiner's Answer does not comply with § 1207.02 of the Manual of Patent Examining Procedure (MPEP). Specifically, in the "Evidence Relied Upon," section 8 (pg. 2, last paragraph), the Examiner indicated that "[n]o evidence is relied upon by the Examiner in the rejection of the claims under appeal." However, the section entitled "Grounds of Rejection" (sec. 9, pg. 3, ln. 14 and pg. 7, ln. 16) reveals that reference to Pettersen (Patent No. 6,826,594) and Delph (6,353,934) were applied to the statement of rejections. In accordance with MPEP § 1207.02, the "Evidence

Application No. 09/706,297

Relied Upon" (section 8) should include:

(8) Evidence Relied Upon

A listing of evidence relied on (e.g., patents, publications, admitted prior art), and in the case of non-patent references, the relevant page or pages.

To remedy this and before further review, the Examiner must mail a PTOL-90 that will include in the amended Evidence Relied Upon section, the list of references mentioned in the statement of rejections. Appropriate correction is required.

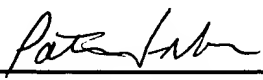
CONCLUSION

Accordingly, it is

ORDERED that the application is returned to the Examiner for appropriate action on the following:

- 1) issue and mail a PTOL-90 citing the missing references listed under the Evidence Relied Upon section, paragraph (8); and
- 2) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES



PATRICK J. NOLAN
Deputy Chief Appeals Administrator
(571) 272-9797

PJN/dpv

Application No. 09/706,297

Harrity & Synder, LLP
11350 Random Hills Road
Suite 600
Fairfax, VA 22030